



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Economic and Monetary Affairs

2012/0102(CNS)

11.12.2012

DRAFT REPORT

on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax, as regards the treatment of vouchers (COM(2012)0206 – C7-0127/2012 – 2012/0102(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Ildikó Gáll-Pelcz

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	10

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax, as regards the treatment of vouchers
(COM(2012)0206 – C7-0127/2012 – 2012/0102(CNS))**

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2012)0206),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union , pursuant to which the Council consulted Parliament (C7-0127/2012),
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0000/2012),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) It is necessary to clarify the tax treatment of the transactions linked to the distribution of multi-purpose vouchers. Where such vouchers are purchased below value to be resold at a higher price, the service of distribution should be taxed based on the margin made by the taxable

Amendment

(10) It is necessary to clarify the tax treatment of the transactions linked to the distribution of multi-purpose vouchers. Where such vouchers are purchased below **nominal** value to be resold at a higher price, the service of distribution should be taxed based on the margin made by the

person.

taxable person.

Or. en

Amendment 2

Proposal for a directive

Article 1 – point 3

Directive 2006/112/EC

Chapter 5 – Article 30a – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. “Voucher” shall mean an instrument carrying a right to receive a supply of goods or services, or to receive a price discount or rebate with regard to a supply of goods or services and where there is a corresponding obligation to fulfil *this* right.

Amendment

(1) “voucher” means an instrument carrying a right to receive a supply of goods or services, or to receive a price discount, or rebate with regard to a supply of goods or services and where there is a corresponding obligation to fulfil *that* right, ***which is shown as a value expressed in monetary terms, as a percentage of reduction, as units or as a quantity***

Or. en

Amendment 3

Proposal for a directive

Article 1 – point 3

Directive 2006/112/EC

Chapter 5 – Article 30a – paragraph 1 – subparagraph 2

Text proposed by the Commission

“Single-purpose voucher” shall mean a voucher carrying a right to receive a supply of goods or services where the supplier's identity, the place of supply and the applicable VAT rate for these goods or services is known at the time of issue of the voucher.

Amendment

(2) “single-purpose voucher” means a voucher carrying a right to receive a supply of goods or services where the supplier's identity, the place of supply and the applicable VAT rate for these goods or services is known at the time of issue of the voucher;

Or. en

Amendment 4

Proposal for a directive

Article 1 – point 3

Directive 2006/112/EC

Chapter 5 – Article 30a – paragraph 1 – point 2a (new)

Text proposed by the Commission

Amendment

(2a) "place of supply" means the Member State in which the underlying supply of goods or services takes place;

Or. en

Amendment 5

Proposal for a directive

Article 1 – point 3

Directive 2006/112/EC

Chapter 5 – Article 30a – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

“Multi-purpose voucher” shall mean any voucher, other than a discount or rebate voucher, which does not constitute a single-purpose voucher.

(3) “multi-purpose voucher” means any voucher, other than a discount or rebate voucher, which does not constitute a single-purpose voucher and which entitles the holder to receive goods or services where those goods or services, the place of supply of the Member State where they are to be taxed are not sufficiently identified and in consequence the VAT treatment of the voucher cannot be determined with certainty at the date of the sale or issuance;

Or. en

Amendment 6

Proposal for a directive

Article 1 – point 3

Directive 2006/112/EC

Chapter 5 – Article 30a – paragraph 1 – subparagraph 4

Text proposed by the Commission

“Discount voucher” *shall mean* a voucher carrying a right to receive a price discount or rebate with regard to a supply of goods or services.

Amendment

(4)“discount voucher” *means* a voucher carrying a right to receive a price discount or rebate with regard to a supply of goods or services, ***which is expressed either as a percentage or as a fixed amount with a face value.***

Or. en

Amendment 7

Proposal for a directive

Article 2 – point 1

Text proposed by the Commission

1. Member States shall adopt and publish, by 1 January 2014 *at the latest*, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall *forthwith* communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2015.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Amendment

1. Member States shall adopt and publish, by 1 January 2014, the laws, regulations and administrative provisions necessary to comply with this Directive ***by 1 January 2015***. They shall *immediately* communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Or. en

Amendment 8

**Proposal for a directive
Article 2 a (new)**

Text proposed by the Commission

Amendment

Article 2a

By 1 January 2017, the Commission shall report to the European Parliament and to the Council on the economic and fiscal impact of this Directive.

Or. en

EXPLANATORY STATEMENT

On 10 May 2012 the European Commission proposed to update EU VAT rules to ensure the uniform tax treatment of all types of vouchers across all Member States. Vouchers represent a market of more than € 52 billion per year in the European Union. Prepaid telecommunications account for almost 70% of the voucher market, followed by gift vouchers and discount vouchers. However, differences in national VAT rules on vouchers lead to serious market inefficiencies. Instead of being able to really benefit from the Single Market, companies face problems of double taxation and difficulties in expanding their business across borders. The new rules seek to redress this situation.

The objective of the proposal is to clarify and harmonise the EU rules on the VAT treatment of vouchers. This will have a positive effect on businesses by eliminating situations of double taxation and uncertainty about tax compliance obligations. It will also help to close loopholes which facilitate tax avoidance by certain companies exploiting the mismatches between Member States. The new rules also fit well in the broader strategy of the Digital Agenda Europe, especially its objective to create a digital single market.

Firstly, the Commission proposes to harmonise the definition of vouchers for VAT purposes and the point of taxation for voucher transactions, to prevent mismatches which result in double taxation or double non-taxation. The time of taxation will be determined by the nature of the voucher, thereby clarifying if the tax should be charged when a voucher is sold or when it is redeemed for goods and services.

Secondly, the new rules draw a clear line between vouchers and other means of payment. The growing number of mobile devices makes it necessary to distinguish between prepaid telecom credits (which are vouchers) and mobile payment services (which are taxed differently). Changes in payment technology, notably the increasing use of mobile payments, require that any room for confusion is removed.

Thirdly, the Directive sets up common rules for the distribution of vouchers in a chain of intermediaries, especially where this extends across two or more Member States. A phone card for example can change hands several times in a distribution chain before it reaches the consumer and the businesses concerned need certainty about their tax obligations.

A number of other technical measures are included to deal with the right of deduction, redemption and reimbursement procedures, the person liable for payment of the tax and other obligations for businesses.

The position of the Rapporteur

The rapporteur welcomes the European Commission's proposal for a Directive amending Directive 2006/112/EC on the common system of value added tax as regards the treatment of vouchers. The rapporteur believes this is the right way forward to take down one of the remaining obstacles to cross-border business.

The rapporteur strongly supports the Commission's objectives of ensuring a uniform tax treatment of all types of vouchers across all Member States. The proposal as it stands will benefit businesses and consumers alike.

Key elements to address the shortcomings of the VAT Directive (2006/112/EC) include:

- 1) a clear legal definition of vouchers for VAT purposes (the new proposed Article 30a has merit in distinguishing between 'single-purpose', 'multi-purpose' and 'discount' vouchers);

2) the identification of when VAT is due (the new proposed Article 30b).

By clarifying and harmonising the EU rules on the VAT treatment of vouchers this proposal will significantly ease the operation of loyalty schemes and gift vouchers. From a business perspective this proposal will help avoid market inefficiencies and scenarios of double taxation or non-taxation. From a consumer perspective, it will effectively be removing a fiscal impediment to the operation of pan-European schemes that will greatly enhance our customers' ability to enjoy our services.

Cross-border retailers have long faced the complexity caused by different regulatory frameworks regarding vouchers and other types of marketing schemes. In fact, regulatory inconsistency has been a barrier to full exploitation of single market opportunities. This is particularly valid for the telecommunications sector.

As pointed out by the study commissioned from Deloitte by the European Commission, vouchers for pre-paid telecom services are by far the most significant category of vouchers and differences in their tax treatment within the EU creates inconsistencies. These inconsistencies have made commercial exploitation and innovation in EU cross-border services unattractive.

The rapporteur welcomes that for vouchers distributed in a chain, the European Commission proposes to introduce the "nominal value concept", a constant value fixed by the issuer of the "multi-purpose voucher" and proposes to treat any positive difference between this nominal value and the price paid by a distributor of the "multi-purpose voucher" as the consideration for a distribution service.

According to the European Commission, "multi-purpose vouchers" would not be taxed when they change hands but only at redemption (i.e. when the end-user actually uses the voucher). The margin for distribution of a "multi-purpose voucher" would be separately taxed as a distinct service. The underlying goods or services which are purchased with the "multipurpose voucher" are taxable at the time of redemption while the distributor's margin is taxed as a service each time it is supplied i.e. each time the "multi-purpose voucher" changes hands.

The Commission proposes that the sale of an MPV should be outside of the scope of VAT, and therefore it is not necessary to identify the taxable amount of the voucher itself. The taxable amount of the goods and services supplied against an MPV is equal to the value of the MPV effectively used to acquire those goods and services. The same principle applies as with SPV when the issuer/refunder of the voucher is not the same as the redeemer, then the taxable amount equals the consideration paid by the customer plus the money paid to the seller by the issuer/refunder (i.e. the amount deducted from the voucher)

In line with the proposed extension of time limits, the rapporteur indeed believes that the Commission's proposal should be amended in order to guarantee a practical and effective implementation of the provisions foreseen, and provide national competent authorities with the necessary level of flexibility and autonomy to comply with the requirement of this Directive.

To summarize the rapporteur convinced that a consistent legal framework on vouchers is indispensable to achieve the implementation of the 2015 change of place of supply rules in relation to business to consumer. Without such rules any business that sells identical vouchers to private individuals from two different Member States could have to apply completely different VAT treatments to the two vouchers; even though the vouchers and their underlying supplies are the same. Such a consequence is absolutely counter-productive to the simplification and unification of approaches envisaged by the new business to consumer rules. The fact that the Commission has issued a proposal for a harmonized VAT treatment of vouchers is widely welcomed because harmonized

rules should bring greater clarity and consistency across the European Union.

Acknowledgement and legislative footprint

The rapporteur would like to thank the European Commission and the Cyprus Presidency of the Council of the European Union for their complete and fruitful cooperation during the drafting process of this report.